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EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2614

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6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/470,100	MINIKAWA ET AL.	
	Examiner	Art Unit	
	James Shelehedo	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 March 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 12-15 and 18-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8, 12-15 and 18-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 3 and 22 are objected to because of the following informalities:

In claim 3, line 2, the phrase "TV antenna source for and" should be changed to -
-TV antenna source and--.

In claim 22, line 2, "the first" and "the second" should be changed to --a first" and
--a second--, respectively.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Broberg (6,529,680) (of record).

As to claim 5, Broberg discloses a system (Fig. 1) for providing a default source to at least one channel number usable by a plurality of sources providing a station to transmit television programs, comprising:

a **processor** (Fig. 1, 34) configured to generate an electronic system guide (on-screen menu, column 5, lines 44-45) identifying the plurality of sources (column 5, lines 41-46 and 61-64); and

a **selector** (34 with switch 50) automatically selecting

1) a first default source (analog) of the plurality of sources in response to selection of a non-overlapping channel number (channels 2-99) for tuning to a station for receiving television programs (analog cable channels; column 7, lines 21-28 and lines 29-39) provided by the selected first default source (analog cable; column 5, lines 34-45), and

2) a second default source (digital satellite) of the plurality of sources in response to selection of an overlapping channel number (channels 100-125 overlapping between cable channels 2-125 and satellite channels 100-999; column 5, lines 37-41) in order to tune to a station for receiving television programs (digital channels; column 7, lines 15-20 and lines 29-39) provided by the second default source (digital satellite; column 5, lines 34-45).

As to claim 6, Broberg discloses wherein the processor is also configured to generate a menu (on screen menu; column 5, lines 40-45 and lines 60-64) listing a satellite source and a cable source for a user to select (column 5, lines 40-45, 60-64) such that the at least one channel number tunes to a station for receiving television programs (column 7, lines 15-39) provided by the selected one of the satellite source and the cable source (column 5, lines 40-45 and lines 60-64).

As to claim 7, Broberg discloses wherein the processor is also configured to generate a menu listing (on-screen menu, column 5, lines 44-45 and lines 60-64) a satellite source (digital satellite; column 5, lines 46-51) and local TV antenna source (off-air channels, column 5, lines 49-51) for a user to select (column 5, lines 40-45, 60-64) such that the at least one channel number tunes to a station for receiving television programs (column 7, lines 15-39) provided by the selected one of the satellite source and local TV antenna source (user selecting if channel is off-air or digital; column 5, lines 40-51 and lines 60-64).

As to claim 8, Broberg discloses wherein the television programs are transmitted using one of an analog and a digital signal (column 5, lines 40-45).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 18-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broberg (6,529,680) in view of Morrison (6,359,580).

As to claim 1, Broberg discloses a method programming a set-top box, comprising:

generating an electronic system guide (on-screen menu, column 5, lines 44-45)
identifying a plurality of sources providing signals to the set-top box (column 5, lines 40-45 and lines 60-64);

selecting a first source (cable) of the plurality of sources as a first source
(wherein channels 2-99 are defaulted to cable; column 5, lines 34-45);

selecting a second source (digital satellite) of the plurality of sources as a second default source (wherein channels 100-999 are defaulted to digital satellite; column 5, lines 37-45); and

automatically programming a non-overlapping channel number (cable channels 2-99; column 5, lines 34-45) to tune to a station for receiving television programs (column 7, lines 15-39) provided by the selected first default source (cable default for channels 2-99; column 5, lines 34-45) and programming an overlapping channel number (channels 100-125 overlapping between cable channels 2-125 and satellite channels 100-999; column 5, lines 37-41) to tune to a station receiving television programs (column 7, lines 15-39) provided by the selected second default source (digital satellite default; column 5, lines 40-46).

While Broberg discloses selecting a first and second default source (through programmed defaults; column 5, lines 34-44), he fails to specifically disclose selecting the source from an electronic system guide.

In an analogous art, Morrison discloses a cable receiver (Fig. 4) wherein the receiver will automatically detect if a channel has a plurality of available sources (column 2, lines 54-57) and the user is presented with a menu to select a source from

the plurality of available sources (Fig. 2; column 3, lines 3-10) and wherein the user chooses a particular source to be the default source (column 3, lines 7-9). This provides the benefit of allowing a user to determine the source defaults for channels.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's system to include selecting the source from an electronic system guide, as taught by Morrison, for the typical benefit of allowing a user to easily select their personal choices for the sources used with channels.

As to claim 2, Broberg and Morrison disclose generating a menu (on-screen menu; see Broberg at column 5, lines 44-45) listing a satellite source and a cable source for a user to select (column 5, lines 40-45 and lines 60-64) such that the non-overlapping channel number (for example, channel numbers 2-99) tunes to a station for receiving television programs (column 7, lines 15-39) provided by a selected one of the satellite source and cable source (a user changing the setting for channels 2-99; column 5, lines 40-45 and lines 60-64).

As to claim 3, Broberg and Morrison disclose generating a menu (on-screen menu; see Broberg at column 5, lines 44-45 and lines 60-64) listing a satellite source (digital satellite; see Broberg at column 5, lines 46-51) and a local TV antenna source (off-air channels, column 5, lines 49-51) for a user to select (column 5, lines 40-45, 60-64) such that the non-overlapping channel number (for example, channel numbers 2-99) tunes to a station for receiving television programs (column 7, lines 15-39) provided

Art Unit: 2614

by the selected one of the satellite source and local TV antenna source (a user changing the setting for channels 2-99; column 5, lines 40-51 and lines 60-64).

As to claim 4, Broberg and Morrison disclose wherein prior to selecting the second source of the plurality of source (wherein the menu is displayed before the selection from the menu is made; see Morrison at column 3, lines 3-10), the method comprising generating a menu listing sources of the plurality of sources (see Morrison at column 3, lines 3-10; Fig. 2) including the second source (whichever source the user selects), for the user to select as the selected second source (wherein the source selected is used as the second source as in claim 1).

As to claim 18, Broberg discloses a system (Fig. 4) for providing a default source to channel numbers, comprising:

a **processor** (Fig. 1, 34) configured to generate an electronic system guide (on-screen menu, column 5, lines 44-45) identifying a plurality of first default sources (column 5, lines 41-46 and 61-64); and listing a plurality of second default sources that may use the over-lapping channel numbers (wherein source settings are listed for any channel; column 5, lines 45-46 and lines 61-64); and

a **selector** (34 with switch 50) configured to (1) select one (analog cable) of a plurality of first default sources (analog cable channels; column 7, lines 15-39) such that the channel numbers (channels 2-99) tune to a station for receiving television programs

provided by the first default source (analog cable; column 7, lines 21-28 and lines 29-39), and

(2) select one (digital satellite) of the plurality of second default sources such that the over-lapping channel numbers (channels 100-125 overlapping between cable channels 2-125 and satellite channels 100-999; column 5, lines 37-41) tune to a station for receiving television programs (digital channels; column 7, lines 15-20 and lines 29-39) provided by the selected second default source (digital satellite; column 5, lines 34-45).

While Broberg discloses listing a plurality of second default sources that may overlap channel numbers and selecting a first default source, he fails to specifically disclose determining if there are over-lapping channel numbers and a user selecting the default source from an electronic system guide.

In an analogous art, Morrison discloses a cable receiver (Fig. 4) wherein the receiver will automatically determine if a channel has a plurality of available sources (overlaps; column 2, lines 54-57) and the user is presented with a menu to select a source from the plurality of available sources (Fig. 2; column 3, lines 3-10) and wherein the user chooses a particular source to be the default source (column 3, lines 7-9). This provides the benefits of eliminating channel conflicts when a plurality of sources are incorporated together and of allowing a user to choose the source defaults for channels.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's system to include selecting the source from an electronic system guide, as taught by Morrison, for the typical benefits of eliminating

channel conflicts when a plurality of sources are incorporated together and allowing a user to easily select their personal choices for the sources used with channels.

As to claim 19, Broberg and Morrison disclose wherein the selected first default source is one of a local TV antenna source (off air; see Broberg at column 5, lines 49-51) and a cable source (cable; see Broberg at column 5, lines 49-51).

As to claim 20, Broberg and Morrison disclose wherein the selected second default source is a satellite source (digital satellite; see Broberg at column 5, lines 49-51).

As to claim 22, Broberg and Morrison disclose wherein the over-lapping channel numbers (channels 100-125) are channel numbers that are used by a first plurality of channel numbers (cable channels 2-125; column 5, lines 34-45) and a second plurality of channel numbers (digital satellite channels 100-999; column 5, lines 34-45).

As to claim 23, Broberg and Morrison disclose wherein the selection of one of the first default sources (cable) and the second default sources (digital satellite) is automatic (wherein the channel mapping uses preset defaults; column 5, lines 34-45).

6. Claims 12-15 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Broberg, in view of Stinebruner (6,133,910) (of record).

As to claims 12 and 21, Broberg discloses a method, and corresponding article of manufacture, for providing a default source to channel numbers, the method comprising: **selecting a first default source** to program channel numbers (column 5, lines 41-45), and if there are over-lapping channel numbers, **listing** (with on-screen menu, column 5, lines 44-45) the plurality of sources that may use the over-lapping channel numbers (column 5, lines 44-46 and lines 61-64), **selecting a second default source** among the listed plurality of sources to program the over-lapping channel numbers (column 5, lines 44-46 and lines 61-64) and **programming** (column 5, lines 30-37) the over-lapping channel numbers to tune to a station for receiving television programs provided by the selected second source (column 8, lines 44-51) and **program** any non-over-lapping channel numbers to tune to a station for receiving television programs provided by the selected first source (column 5, lines 41-51). Broberg fails to disclose, however, a means for determining if there are over-lapping channel numbers usable by a plurality of sources.

Stinebruner discloses a method of automatically determining if local program channels use the same channel number as those used by other sources (column 11, lines 50-53) for the typical advantage of eliminating channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include a means for determining if there are over-lapping channel numbers usable by a plurality of sources, as taught by

Stinebruner, for the typical advantage of eliminating channel conflicts when a plurality of sources are incorporated together.

As to claim 13, Broberg and Stinebruner disclose a method wherein if there are no over-lapping channel numbers, programming the channel numbers to tune to a station for receiving television programs provided by the selected first source (see Broberg at column 5, lines 39-51).

As to claim 14, Broberg and Stinebruner disclose wherein selecting a first source selects one of a cable source and a satellite source (see Broberg at column 5, lines 37-44).

As to claim 15, Broberg and Stinebruner disclose wherein selecting a second source selects one of a cable source and a satellite source (see Broberg at column 5, lines 37-46 and lines 61-64).

Response to Arguments

7. Applicant's arguments with respect to claims 1-8 and 18-23 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 03/01/04 concerning claims 12-15 and 21 have been fully considered but they are not persuasive.

As to claims 12-15 and 21, Applicant argues, “**neither Broberg or Stinebruner, alone or in combination, describes or even suggests the programming of channels from different sources based on whether the channel is as over-lapping or non-overlapping channel.**” (page 12, lines 12-14 of the amendment).

In response, Stinebruner states “The local channels may be **automatically incorporated at corresponding virtual channels** (e.g., local channel 3 located at virtual channel 3), whereby existing channels on other sources would be moved to other virtual channels.” (column 11, lines 50-53 as quoted in the original rejection). The existing channels are moved (**or programmed**) to other virtual channels based upon the automatic incorporation of the local programming at their corresponding virtual channels. The existing channels are moved to new virtual channels based upon whether they **overlap** with the local channel. This meets the “**programming of channels from different sources based on whether the channel is as over-lapping or non-overlapping channel**” limitation and therefore applicant’s arguments are not persuasive.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
Art Unit 2614

JS


CHRIS GRANT
PRIMARY EXAMINER